

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Criminal Docket
	)	No. 1:11-cr-10165-RGS
vs.	)	August 23, 2011
	)	11:00 a.m.
TIMOTHY CORREIA, ET AL,	)	
	)	
Defendants.	)	

RULE 11 HEARING

BEFORE: THE HONORABLE RICHARD G. STEARNS  
UNITED STATES DISTRICT JUDGE

John Joseph Moakley United States Courthouse  
1 Courthouse Way, Courtroom No. 21  
Boston, MA 02210

Helana E. Kline, RMR, CRR  
Official Court Reporter  
John Joseph Moakley United States Courthouse  
1 Courthouse Way, Room 5209  
Boston, MA 02210

APPEARANCES:

For the Government:

United States Attorney's Office  
(By: Rachel S. Rollins, Assistant U.S. Attorney)  
John Joseph Moakley United States Courthouse  
1 Courthouse Way, Suite 9200  
Boston, Massachusetts 02210  
617-748-3398

For the Defendant:

Law Office of James Budreau  
(By: James H. Budreau, Attorney at Law)  
20 Park Plaza, Suite 1405  
Boston, Massachusetts 02116  
617-338-5587

1 P R O C E E D I N G S

2 THE CLERK: All rise. All persons having business  
3 before the Honorable Richard G. Stearns, United States  
4 District Judge, now sitting at Boston within and for the  
5 District of Massachusetts, may draw near, give their  
6 attendance, and they shall be heard. God save the United  
7 States of America and this Honorable Court. Court is open.  
8 Please be seated.

9 The case before this Court carries Case No. 11-cr-10165,  
10 United States of America versus Timothy Correia. Counsel,  
11 please identify yourselves for the record?

12 MS. ROLLINS: Good morning, your Honor. Rachel  
13 Rollins for the government.

14 MR. BUDREAU: And, your Honor, James Budreau on  
15 behalf of Mr. Correia. Good morning.

16 THE COURT: Good morning. Mr. Budreau, I gathered  
17 from the clerk that your client is offering to plead guilty  
18 to the one-count indictment; there is no plea agreement?

19 MR. BUDREAU: Correct, your Honor.

20 THE COURT: All right.

21 THE CLERK: Mr. Correia, Count 1 of the indictment  
22 filed by the United States Attorney charges you with dealing  
23 in firearms without a license on or about July 13, 2010,  
24 and November 29th, 2010, in violation of Title 18, United  
25 States Code, Section 922A1(a), to which count you

1 previously plead not guilty. Do you now wish to change  
2 your plea?

3 THE DEFENDANT: Yes.

4 THE CLERK: And how do you plead to Count 1, guilty  
5 or not guilty?

6 THE DEFENDANT: Guilty.

7 THE CLERK: Please raise your right hand.

8 (Timothy Correia duly sworn.)

9 THE CLERK: Would you please take a seat in the  
10 witness box. Counsel, would you join him please?

11 MR. BUDREAU: Yes.

12 THE COURT: Good morning, Mr. Correia. My name  
13 is Richard Stearns; and as is evident, I'm a judge of the  
14 United States District Court. Before I can accept your plea  
15 in the case I'm going to ask some questions.

16 The reason for the questions is that I have to make my  
17 own determination that your decision to plead guilty is a  
18 voluntary decision and one made with the full knowledge of  
19 the consequences of pleading guilty.

20 Now, anything I say that is confusing or seems imprecise  
21 either ask me to rephrase it or feel free to consult with  
22 your lawyer before you answer. Okay?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. For the record, can you tell us  
25 your full name?

1 THE DEFENDANT: Timothy Correia.

2 THE COURT: How old are you, Mr. Correia?

3 THE DEFENDANT: 19.

4 THE COURT: 19. Where were you born?

5 THE DEFENDANT: Brockton.

6 THE COURT: I'm sorry?

7 THE DEFENDANT: Brockton, Massachusetts.

8 THE COURT: In Brockton, and you grew up in Brockton?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Did you attend school in  
11 Brockton?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: How far did you go?

14 THE DEFENDANT: I went to 11th grade.

15 THE COURT: So you went to Brockton High School?

16 THE DEFENDANT: I went to Brockton High School.

17 THE COURT: And you left during or at the end of the  
18 11th grade?

19 THE DEFENDANT: It was like during. It was during  
20 the year.

21 THE COURT: During the year?

22 THE DEFENDANT: Yeah.

23 THE COURT: Do you have your GED?

24 THE DEFENDANT: No, sir.

25 THE COURT: No. When you left school, what did you

1 do?

2 THE DEFENDANT: Nothing.

3 THE COURT: Did you work?

4 THE DEFENDANT: No.

5 THE COURT: Not really. Are you married?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you have children?

8 THE DEFENDANT: No, sir.

9 THE COURT: Is your family in Brockton?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Brothers, sisters?

12 THE DEFENDANT: I have four sisters and two brothers.

13 THE COURT: So it's a big family?

14 THE DEFENDANT: Right.

15 THE COURT: So do you have any trade or profession?

16 THE DEFENDANT: No, sir.

17 THE COURT: This question I'm not asking to be  
18 intrusive, I'm required to ask it: have you ever been  
19 treated for any mental condition or psychological problem?

20 THE DEFENDANT: No, sir.

21 THE COURT: Are you presently taking any prescription  
22 medication?

23 THE DEFENDANT: No, sir.

24 THE COURT: So as far as you're concerned as you  
25 sit here, your mind is clear, you understand the nature of

1 the proceeding?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. This document is called an  
4 indictment. An indictment is itself not evidence of a crime.  
5 It simply notice to the person named in the indictment that  
6 he must answer to the charge that the indictment sets out.  
7 Okay.

8 Have you read the indictment?

9 THE DEFENDANT: Yes.

10 THE COURT: Have you discussed it with Mr. Budreau?

11 THE DEFENDANT: Yes.

12 THE COURT: Has he explained to you the elements of  
13 the offense charged? By "elements" a lawyer would mean the  
14 critical components of the offense that the government  
15 would have to prove beyond a reasonable doubt to obtain a  
16 conviction.

17 THE DEFENDANT: Yes.

18 THE COURT: Okay, and Let me be very brief.  
19 Essentially, what the indictment charges is that during a  
20 period between July and November of 2010, that is last year,  
21 you engaged in the business of dealing which usually means  
22 selling or transferring the possession of a firearm to  
23 someone else without being authorized to do so by law.

24 To be authorized by law one has to be licensed as a  
25 firearms dealer. The indictment alleges that you did not

1       have a license. Nonetheless, the firearms that were dealt  
2       with, which were seven in number, and they're specified in  
3       the indictment, were all transferred to another's  
4       possession, again, without a license to do so.

5             Do you understand that that's what the charge is?

6             THE DEFENDANT: Yes.

7             THE COURT: Now, let me ask the prosecutor what the  
8       maximum penalties for the offense are?

9             MS. ROLLINS: Yes, your Honor. There's a five-year  
10       maximum prison sentence, a fine of up to \$250,000,  
11       supervised release of three years, and a special assessment  
12       of \$100.

13            THE COURT: Do you understand that those are the  
14       maximum penalties; that is, if you go to the statute book  
15       and look for the maximum penalties, that's what you'd find?

16            THE DEFENDANT: Yes.

17            THE COURT: I don't want to know anything about the  
18       details. Have you ever been convicted of a crime previously?

19            THE DEFENDANT: No, sir.

20            THE COURT: All right. Do you understand that this  
21       is a felony crime. Conviction of a felony carries with  
22       it certain civil or what lawyers would say "collateral  
23       consequences" that may affect a person's civil rights: the  
24       right to vote, the right to serve on a jury, and related to  
25       the offense, the right to possess a firearm or ammunition



1 of any kind.

2 Do you understand that that's a consequence as well?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. Budreau, have you looked at the  
5 sentencing guidelines?

6 MR. BUDREAU: I have, your Honor.

7 THE COURT: Have you discussed it with the  
8 government?

9 MR. BUDREAU: I have, your Honor. We both concur it  
10 would be in the 18- to 24-month range.

11 THE COURT: 18 to 24 months?

12 MR. BUDREAU: Correct.

13 THE COURT: Ms. Rollins, the government agrees with  
14 that?

15 MS. ROLLINS: We do, your Honor.

16 THE COURT: In that case it may not be necessary  
17 for me to explain in any length since it appears that the  
18 sentencing guidelines aren't an issue.

19 MR. BUDREAU: I would agree, your Honor.

20 THE COURT: Okay. Mr. Correia, let me explain that  
21 the guidelines that the lawyers are referring to are the  
22 recommended sentencing range that a commission appointed  
23 by Congress years and years ago had issued in terms of  
24 recommendations to judges about what judges should, in  
25 the eyes of the commission, do or not do in matters of

1       sentencing.

2           There was a time five or six years ago that a judge  
3       would have told you that the guidelines were pretty much  
4       mandatory within the circumstances of the case. Given  
5       recent developments in Supreme Court law, that's no longer  
6       true. The guidelines are, as the term implies, advisory;  
7       that is, a judge is to look to them, and if the judge  
8       finds that the result under the sentencing guidelines is  
9       reasonable, the judge should sentence within that range.

10          If the judge on the other hand finds that it's an  
11       unreasonable recommendation, in that the sentence should be  
12       greater or lesser than the range than the guidelines  
13       prescribe, the judge is empowered to use his or her  
14       discretion and impose the sentence that seems appropriate.

15          Where here there's an agreement between your counsel  
16       and the government, that's an 18- to 24-month sentencing  
17       range is the one that the guidelines recommend, what I can  
18       tell you is that I would not exceed the 24-month maximum  
19       without giving you the chance to first withdraw your plea.

20          Do you understand that?

21                THE DEFENDANT: Yes, sir.

22                THE COURT: Okay. But other than that assurance,  
23       the likelihood of the sentence falling within that range is  
24       pretty good; although, we won't know until we see the  
25       presentence report.

1           Again, do you understand that?

2           THE DEFENDANT: Yes, sir.

3           THE COURT: All right. Do you understand that when  
4 you plead guilty, you give up the right to have your case  
5 tried before a jury?

6           THE DEFENDANT: Yes.

7           THE COURT: Have you ever seen a jury trial?

8           THE DEFENDANT: No, sir.

9           THE COURT: Okay. Let me explain that under the  
10 U.S. Constitution while judges are given great deal of  
11 authority over matters of law binding determinations of  
12 fact, for example, whether a person is guilty or not guilty  
13 of a crime, if either the defendant or the government  
14 insists on it may not be found by the judge but by a panel  
15 of citizens, 12 in number, called the jury.

16           The jury in federal cases is selected from citizens of  
17 the United States who live in the eastern part of the state,  
18 and the same jurors basically who would appear in the state  
19 county courts for trial, it's just that we draw from a  
20 larger geographic area, but we chose the same jurors in  
21 choosing our juries.

22           On the day a case is scheduled for trial those  
23 designated, picked randomly by computer, are instructed  
24 to appear here in the courtroom. When they do, they're  
25 interviewed, mostly by the judge but the lawyers participate

1 as well, to determine their eligibility to sit on the case  
2 to be tried.

3 During the process of choosing the 12, a defendant is  
4 permitted to object to any 10 for whatever reason he does  
5 not want seated while the government can object to any 6  
6 that it for whatever reason does not want to serve on the  
7 jury that's being composed. The jury, after they hear the  
8 evidence, are required to be unanimous as to whether the  
9 person has or has not committed the offense being tried.

10 So do you understand that by giving up the right to  
11 have your case tried before a jury I mean not only the right  
12 to have a jury make the determination as to whether, in fact,  
13 you are guilty or not guilty of this offense, but also the  
14 right to participate in the selection of the very jury that  
15 would make that decision. Is that all clear?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that you would be  
18 entitled to Mr. Budreau's assistance throughout the jury  
19 selection process and throughout the trial of the case?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that I would instruct  
22 the jury that they must presume you innocent unless and  
23 until the government succeeds in proving your guilt beyond  
24 a reasonable doubt?

25 THE DEFENDANT: Yes.

1           THE COURT: Do you understand that the burden of  
2 proof in a criminal trial is proof beyond a reasonable doubt,  
3 a very heavy burden that the government bears throughout the  
4 trial?

5           THE DEFENDANT: Yeah.

6           THE COURT: Do you understand that in practical  
7 terms because the burden of proof rests with the government  
8 you would have no obligation to prove your innocence, to  
9 call any witnesses, to produce any evidence, nor certainly  
10 could you ever be compelled to testify at trial?

11          THE DEFENDANT: Yes.

12          THE COURT: Do you also understand that by pleading  
13 guilty you give up the right to testify before the jury in  
14 your own defense to offer evidence that you think might be  
15 exculpatory or mitigating?

16          THE DEFENDANT: Yes.

17          THE COURT: Do you understand that you give up the  
18 right to confront the witnesses against you; that means that  
19 Mr. Budreau can ask questions of the government's witnesses?

20          THE DEFENDANT: Yes.

21          THE COURT: And do you understand you give up the  
22 right to remain silent at least for purposes of today's  
23 proceeding?

24          THE DEFENDANT: Yes.

25          THE COURT: Let me ask the prosecutor to summarize

1 the evidence that she would present if the case proceeded to  
2 trial. When she finishes, I have to ask if you agree that  
3 you did the things, the important things, that she alleges.  
4 By "important things," I mean not details, I mean those  
5 things that make up the proof of the elements of the crime  
6 charged.

7 All right. Ms. Rollins?

8 MS. ROLLINS: Yes, your Honor. ATF used a  
9 cooperating witness to make several controlled purchases  
10 of firearms from Mr. Timothy Correia. There were six  
11 transactions total, your Honor, and seven guns in all that  
12 were purchased from him. In each instance the government  
13 would prove that the cooperating witness called Mr. Timothy  
14 Correia, placed an order, agreed on a meeting location and  
15 a price. The cooperating witness was then searched and  
16 equipped with a recording device, given ATF funds, your  
17 Honor, surveyed during the transaction, and immediately  
18 debriefed after the transaction, and stripped of any firearms  
19 and ammunition or extra ATF funds that were actually  
20 purchased from Mr. Correia or left over as a result of the  
21 transaction.

22 In each of the instances, your Honor, that I'm about  
23 to describe those series of events occurred. The government  
24 would prove that on July 13th, 2010, the cooperating witness  
25 contacted Timothy Correia, Olivio Correia, his brother,

1 who's also charged in the same indictment, was seen in the  
2 surveillance video during this transaction in the purchase  
3 of a Walther .380 caliber semiautomatic pistol with an  
4 obliterated serial number and an Uberti gun as well.

5 On July 22, 2010, the government would prove that the  
6 cooperating witness contacted Timothy Correia and purchased  
7 a Cobra semiautomatic pistol. The government would prove  
8 that on August 4th, 2010, your Honor, the cooperating  
9 witness purchased a Rugger .357 caliber revolver from  
10 Mr. Timothy Correia.

11 The government would prove that on August 9th, 2010, the  
12 cooperating witness purchased from Mr. Timothy Correia a  
13 Mossberg .12 gauge sawed-off shotgun. On August 11th, 2010,  
14 the government would prove that the cooperating witness  
15 contacted Mr. Timothy Correia. Mr. Timothy Correia did not  
16 arrive; he sent his brother, Olivio Correia, who then showed  
17 up and sold the cooperating witness a Smith & Wesson .38  
18 caliber revolver.

19 Mr. Correia was not seen, Timothy was not seen in any  
20 video on that day, but there were calls placed to him to set  
21 up that transaction.

22 The government finally, your Honor, would prove that  
23 on November 29, 2010, the cooperating witness contacted  
24 Timothy Correia and purchased a Jimenez .380 caliber  
25 semiautomatic pistol.

1           Your Honor, the government would also prove that during  
2 all relevant time periods discussed between July and November  
3 of 2010 Timothy Correia did not have a federal firearms  
4 license. The government would prove that all guns mentioned  
5 traveled in interstate and/or foreign commerce, and the  
6 government would be able to prove that all of the guns were  
7 firearms.

8           Lastly, your Honor, there is a forfeiture allegation but  
9 because of the fact that the government seized all of the  
10 weapons and ammunition at the end of the transaction, there's  
11 nothing to forfeit at this time. That's what the government  
12 would be proving.

13           THE COURT: All right. Mr. Correia, the allegations  
14 and the offer of evidence is that on the dates specified you  
15 sold seven firearms either directly yourself or working with  
16 your brother to a person who you obviously didn't know was a  
17 cooperating government witness, and that at no time during  
18 any one of these transactions did you have a firearm dealer's  
19 license. Is that true? Do you accept responsibility for the  
20 offenses as alleged?

21           THE DEFENDANT: Yes, sir.

22           THE COURT: Are you offering to plead guilty  
23 willingly, freely, and voluntarily?

24           THE DEFENDANT: Yes, sir.

25           THE COURT: Has anyone coerced you in a physical



1 sense into pleading guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have any secret promises been made to  
4 induce you to plead guilty?

5 THE DEFENDANT: No, sir.

6 THE COURT: Have any threats been made other than  
7 obviously the threat of being prosecuted?

8 THE DEFENDANT: No, sir.

9 THE COURT: Have you had sufficient time to discuss  
10 with Mr. Bourbeau (sic) the charge in the case, your rights,  
11 your possible defenses, and the consequences of pleading  
12 guilty?

13 THE DEFENDANT: Yes, sir.

14 MR. BUDREAU: Your Honor, I smile a little bit  
15 because people confuse me often with Mike Bourbeau.

16 THE COURT: I'm sorry.

17 MR. BUDREAU: That happens often.

18 THE COURT: No, I'm sorry.

19 MR. BUDREAU: I'm better looking I have to say.

20 MS. ROLLINS: I object to that.

21 THE COURT: That is exactly what I was thinking,  
22 Mr. Budreau. I'm sorry.

23 Do you feel that at all times he's acted in your best  
24 interests?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Mr. Correia, have I confused you by  
2 anything I've said or any question I've asked?

3 THE DEFENDANT: No, sir.

4 THE COURT: Do you understand that you're pleading  
5 guilty because you are guilty and given the strength of the  
6 government's evidence you feel it's in your best interests  
7 to plead guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Does counsel have any other areas you'd  
10 like me to inquire into?

11 MS. ROLLINS: No your Honor.

12 MR. BUDREAU: No, your Honor.

13 THE COURT: Mr. Correia, if you'd step back to the  
14 counsel table with Mr. Budreau, please.

15 All right. I find Mr. Correia is well-oriented, that his  
16 answers have been responsive to my questions. I find that  
17 he understands the nature of the charge and the potential  
18 penalties that he faces. I find that he is competent to  
19 enter a plea; that he has done so with the full understanding  
20 of his rights, and the consequences of waving those rights.  
21 I also find that there is a sufficient basis in the facts  
22 alleged by the government as acknowledged by the defendant to  
23 warrant a finding of guilt on the offense beyond a reasonable  
24 doubt and so I find that the plea is entered voluntarily,  
25 with full knowledge of its consequences, and after careful

1 consideration by the defendant and advice of experienced  
2 counsel of his own best interests, I will accept the plea,  
3 and we will schedule sentencing for November 17, 2011, at  
4 3 p.m.

5 All right. If counsel have nothing further on this  
6 matter today, we will be recessing.

7 MS. COLLINS: No, your Honor.

8 MR. BUDREAU: No, your Honor. Thank you.

9 THE CLERK: All rise.

10 (Whereupon, the proceedings concluded at 11:25 a.m.)  
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C E R T I F I C A T E

I, Helana E. Kline, a Registered Merit Reporter,  
Certified Realtime Reporter, and Federal Official Court  
Reporter of the United States District Court, do hereby  
certify that the foregoing transcript, from Page 1 to  
Page 20, constitutes, to the best of my skill and ability,  
a true and accurate transcription of my stenotype notes  
taken in the matter of the United States of America v.  
Timothy Correia, et al.

/s/ Helana E. Kline

November 28, 2011

Helana E. Kline, RMR, CRR

Federal Official Court Reporter